IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.Rev.Pet.No. 1853 of 2007()

CRA.141/2006 of ADDL. SESSIONS COURT-II, MAVELIKKARA
CC.230/2005 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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REVN. PETITIONER: APPELLANT/ACCUSED

S.PRADEEP, AISWARYA, NETHAJI ROAD,
EDAPPALLY, KOCHI.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. K.P.VARGHESE, KOTTALLIL HOUSE,
PALLICKAL P.O., KATTANAM VILLAGE.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.P.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.1853 of 2007

Dated this the 24th day of May, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to undergo simple imprisonment for three months and to pay a compensation of Rs.1,50,000/- to the complainant vide Section 357(3) of the Code of Criminal Procedure and in default, to undergo simple imprisonment for two months.

2. I find that the contention of the revision petitioner that the complainant has not proved the source and that the address for the complainant could not be established are not relevant. Petitioner has not adduced any evidence to rebut the presumptions under Section 139 of the Negotiable Instruments Act. The petitioner has testified and produced the documents that would establish the execution of the cheque, issuance of notice demanding payment and non payment. In the circumstances, I find no reason to interfere in the findings of the court below. The same are confirmed.

3. All the same, considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court. The rest of the sentence is confirmed. Revision petitioner is granted six months' time from today onwards to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court- Kayamkulam on 24.11.2007 to receive the sentence. Non bailable warrant, pending, if any shall be kept in abeyance till 24.11.2007.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl